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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re H.M., a Person Coming Under the
Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

PATRICIA S.,

Defendant and Appellant.

G042431

(Super. Ct. No. DP018038)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Dennis J. Keough, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, and Karen L. Christensen, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for the Minor.

Patricia S., the mother of now five-year-old H.M. (sometimes referred to in the record as H.S., using her mother's last name), appeals from the dependency court's

judgment terminating jurisdiction. She contends the court failed to make findings required under Welfare and Institutions Code sections 366.21, subdivision (e), 366, subdivision (a), and 361.2, subdivision (b)(3). (All further statutory references are to the Welfare and Institutions Code.) Because mother was no longer receiving reunification services and the child was living with her father, the court properly terminated jurisdiction under section 364, subdivision (c). We therefore affirm the judgment.

FACTS

Mother and H.M. were found at a Sacramento Amtrak station without luggage, tickets, or money. Mother was involuntarily committed to a psychiatric facility. Father lived in Mexico and had proceedings pending before the Immigration Service with the hope of being permitted to return to the U.S. H.M. was placed in a Stanislaus County Children's Receiving Home. The Stanislaus County Juvenile Court sustained the petition filed by the Stanislaus County Community Services Agency and ordered family reunification services for both parents.

At the time of a status hearing conducted approximately six weeks later, father had returned to the U.S. and was living in Orange County. Shortly thereafter, father filed a petition under section 388, asking H.M. to be released to him and the case transferred to Orange County. The court granted the petition, returning H.M. to father's care and finding it to be in the child's best interest to transfer the case to Orange County. Shortly thereafter, the Orange County Social Service Agency (SSA) reported that H.M. was with father in Orange County and the Orange County Juvenile Court accepted the transfer and declared H.M. a dependent of the Orange County Juvenile Court.

At the time of an Orange County review hearing shortly after the transfer, H.M. was living with her father. The court appointed counsel for mother, who was then

living in Watsonville and was present for the hearing. SSA had recommended that H.M. continue to live with father and that mother receive “enhancement services.” Mother’s lawyer stipulated to SSA’s recommendations and the court approved the case plan accordingly. The court also ordered monitored visitation for mother and scheduled a six-month review hearing.

At the time of the six-month hearing, H.M. continued to live with father and SSA recommended that jurisdiction be terminated. Mother opposed termination of jurisdiction because she wanted to receive additional services and reunite with H.M. Father and H.M.’s lawyers argued that it was in the child’s best interest to give father sole legal and physical custody. The court agreed and ordered jurisdiction terminated, with the custody orders to be filed in the court’s family law division. The court further ordered that mother would have two monitored visits of eight hours each per month.

DISCUSSION

In accordance with the stipulation signed by all parties, including mother’s lawyer, reunification efforts ceased at the time of the original Orange County hearing and H.M. continued to live with her father. Mother did not seek appellate review of that decision and the time to appeal from it has passed.

Section 364, subdivision (c) provides in part: “After hearing any evidence presented by the social worker, the parent, the guardian, or the child, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the social worker or his or her department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.” The SSA report prepared for the six-month review hearing recommended that dependent child proceedings be terminated with exit orders. The

report contained evidence supporting SSA's conclusion that "the child appears to be doing well. She remains in the care of the father, who appears to be providing good care of her. He works full time and when the child is not in preschool, his neighbor provides [H.M.] with child care."

In accordance with the requirements of section 364, subdivision (c), the court properly terminated dependency jurisdiction. Any future changes in the relationship between the mother and her daughter must be determined in the family law court.

Mother's complaint that the court failed to make findings under sections 366.21, subdivision (e), 366, subdivision (a), and 361.2, subdivision (b)(3) are not well taken. These sections pertain to situations where a dependent child has been removed from the parents. But here, H.M. was in the care of her father and the court's order merely confirmed this arrangement together with the implicit decision, well supported by evidence, that no further supervision was required. The language of the three referenced statutes indicates they are not applicable here.

Section 361.2 applies "[w]hen a court orders removal of a child pursuant to Section 361" (§ 361.2, subd. (a).) Here the removal had taken place earlier in Stanislaus County and by the time of the Orange County six-month review hearing the child was back in the care of her father. Section 366, subdivision (a)(1) deals only with a "child in foster care" Section 366.21, subdivision (e), likewise, by its very language applies to a child in foster care. H.M. was not in foster care. Where the language of the statute is clear and unambiguous, we follow its plain meaning. (*In re Allana A.* (2005) 135 Cal.App.4th 555, 563.)

In her reply brief, mother suggests she may have been unaware of the change of status when her lawyer stipulated and the court ordered "enhancement services." But she is bound by the stipulation nevertheless and no record supports her claim she did not understand. As mother's brief points out in, *In re A.C.* (2008) 169

Cal.App.4th 636, the court explained the “enhancement services” offered to mother, after the child there was placed in father’s care, were “not designed to reunify the child with that parent, but instead to enhance the child’s relationship . . . by requiring that parent to address the issues that brought the child before the court.” (*Id.* at p. 642, fn. 5.) Mother may well be correct that she “continued to work toward . . . reunification.” And we hope she will continue to do so. If she can demonstrate to the family court that her circumstances have changed, the court may order a change in her relationship with her daughter. But none of this persuades us the trial court erred.

Finally, mother continues to argue that the order of the Stanislaus County Court that she be provided with reunification services remained in effect. This is not correct. That order was superseded by the one all parties stipulated to at the Orange County review hearing.

DISPOSITION

The judgment is affirmed.

RYLAARSDAM, ACTING P. J.

WE CONCUR:

ARONSON, J.

IKOLA, J.